



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2012-0442; FRL-9356-5]

FIFRA Pesticide Registration Review and ESA Consultation Processes; Proposal Regarding Stakeholder Input; Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is seeking public comment on a proposal to enhance opportunities for stakeholders to provide input during its review of pesticide registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and associated consultations under Section 7 of the Endangered Species Act (ESA). The proposal was jointly prepared by EPA, the U.S. Department of Agriculture (USDA), the National Marine Fisheries Service (NMFS) in the U.S. Department of Commerce and the Fish and Wildlife Service (USFWS) in the U.S. Department of Interior. The proposal describes significant changes to EPA's registration review process which are intended to facilitate ESA pesticide consultations and coordination across these Federal agencies, and calls for a greater role for USDA.

DATES: Comments must be received on or before *[insert date 60 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2012-0442, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.htm>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Richard P. Keigwin, Jr., Pesticide Re-evaluation Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8000; fax number: (703) 308-8005; email address: keigwin.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is the Agency Taking?

EPA is taking public comment on a document entitled, “Proposal for Enhancing Stakeholder Input in the Pesticide Registration Review and ESA Consultation Processes and Development of Economically and Technologically Feasible Reasonable and Prudent Alternatives,” a copy of which is available in the docket at <http://www.regulations.gov> under docket ID number EPA-HQ-OPP-2012-0442. The document describes proposed changes to EPA’s pesticide registration review program and how it conducts consultation with the Services under Section 7 of the ESA.

II. Why is the Agency Taking this Action?

In an effort to be responsive to stakeholders’ desires for a mechanism to get information into the registration review process as early as possible, EPA proposes to hold “Focus” meetings at the start of registration review for each active ingredient. In response to stakeholders’ desires

for a more open, reliable, and transparent pesticide consultation process, EPA proposes to initiate any needed formal ESA consultations at a later stage in the review process. Consulting later in the registration review process allows EPA to develop more refined ecological risk assessments and to engage affected stakeholders in discussions that should result in more focused consultation packages inclusive of mitigation for listed species. There is an emerging consensus that EPA and the Services should engage informally and early in the consultation process, but that formal consultation should be reserved until EPA's ecological risk assessment and proposed decision are more fully formed. This approach has the potential to maximize the opportunity to effect changes that provide protections for species and their designated critical habitat, lessen the impacts on agriculture, and narrow the scope of the Federal action.

Additionally, the proposal describes EPA's plans to reach out to pesticide users potentially affected to discuss the technological and economic feasibility of "Reasonable and Prudent Alternatives" (RPAs) intended to avoid jeopardy to threatened and/or endangered species. The USDA's relationships with the agricultural community provide a critical link between EPA's expertise on pesticides and the Services' expertise on listed species' locations, status and biology.

Finally, the proposal describes the process by which public comments received on RPAs will be summarized and organized by EPA and provided to the Services, who will prepare a document to be included in the administrative record of the consultation explaining how comments were considered, and if appropriate, how the final biological opinion was modified to address the comments. The Services will provide the document to EPA, and both the Services and EPA will make the document available to the public upon request. These process changes

are intended to provide clarity and transparency to the ESA Section 7 consultation process for pesticides.

EPA and the departments of Agriculture, Commerce, and Interior are taking this action because many stakeholders have expressed concerns regarding the apparent lack of transparency surrounding ESA consultations on pesticide registration review decisions, and the need for increased access to the decision-making process by states and other stakeholders for the purpose of providing relevant data for consideration during registration review and accompanying ESA consultation. Increasing public participation opportunities during both the registration review and accompanying ESA consultation processes, and improving clarity and transparency during these processes are important goals of this action.

In the interest of facilitating discussion and providing clarification on the process changes described in the proposal, EPA and the departments of Agriculture, Commerce, and Interior are willing to meet with affected stakeholders. Individuals and/or organizations wanting to meet with the agencies to discuss this proposal should submit a request to the docket.

List of Subjects

Environmental protection, Endangered species, Pesticides and pests, Threatened species.

Dated: August 3, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

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